Commissioner of Patents Attn: Examiner Jordan M. Lofdahl Art Group 3644 P.O. Box 1450 Arlington, VA 22313



October 4th, 2004

Re: Office Action with Restriction Requirement for Patent Application for "AN ALTERNATIVE EFFICIENT MILKING METHOD"

S/N 10/706,699

Carl Muirbrook., Inventor

Dear Examiner Lofdahl:

On this date I am sending by Express Mail the Response to the Office Action with Restriction Election on the above application.

I hereby authorize use of my deposit account, 500705, with User ID FINA, to cover all necessary fees and costs for this application.

Sincerely Yours:

George & Cole, Esq.

PTO #40,563



In Re Application Of: Carl T. Muirbrook		Examiner:	Jordan M. Lofdahl	
Serial No.	10/706,699	Group Art Unit:	3644	
Filed:	11/12/2003			
For:	An Alternative Eff	Date:	Oct. 4th, 2004	
THE COMMISSION	ER OF PATENTS AND T	TRADEMARKS		
Washington, D.C. 20231				
Washington, D.C. 20				
SIR: Transmitted herewith are:				
SIK. Hansimucu ii	ciewith are.			
X an election restriction as requested by the Examiner.				
			1	
X Extension of time as necessary is requested, and authority to charge against				
deposit account 50-0	705 is herewith granted.			
Payment for the	e three-month extension pe	eriod.		
I ayment for the	, unco monar entension p			
X_ The Commiss	sioner is herewith authorize	ed to charge payment	of the necessary	
fees, or credit any ov	erpayment to Deposit Acc	ount 50-0705 associa	ted with this	
	ny related purpose, includi	ing: (A DUPLICATE	COPY OF THIS	
SHEET IS ENCLOS	ED)			

_X__ Any additional filing fees required for presentation of extra claims _X__ Any extension or petition fees.

Small entity status for this application under 37 CFR §1.9 and 1.27 has been established by a verified statement previously submitted.

Respectfully Submitted:

George S. Cole, Esq. PTO #40,563

495 Seaport Court, Suite 101 Redwood City, CA 94063

Tel: (650) 556-9510 Fax:(650) 556-9511 GSCdLawyer@aol.com In Re Application Of: Carl T. Muirbrook

Serial No.

10/706,699

Filed:

11/12/2003

An Alternative Eff....

Examiner:

Jordan M. Lofdahl

Group Art Unit: 3644

Date:

Oct. 4th, 2004

RESPONSE TO OFFICE ACTION

This is in response to the Office Action for Restriction dated 04/20/2004.

CLAIMS RESTRICTION

The Examiner asserted that two distinct species of the claimed invention were disclosed (Species A, 'preparing teat' and Species B, 'feeder tube'). Applicant is puzzled, however, as to the Examiner's assertion of separateness of species for the following reason.

The principle difference between the species appears to be absence or presence of a delay between preparing a teat and applying a feeder tube. As some delay, intentional or unintentional - even if it be that imposed solely by the limitations of human reaction and action time - cannot be eliminated, the addition of extra delay is necessarily but an additional, not an alternative, step, and thus constitutes not a separate species but a more constrained and thus dependent claim. Pursuant to MPEP §806.03, this should not be subject to restriction, as these claims 'are but different definitions of the same disclosed subject matter', varying only its breadth or scope of definition.

However, as the Examiner has carefully pointed out, even if the objection as to speciation is traversed, an identification of an elected species is mandatory. Accordingly, for the first species, Applicant provisionally elects the species A, "preparing teat".

Furthermore, the Examiner's assertion that there is a sub-species differentiation between the use of a sanitizing sprayer, and a dip cup, is accepted, and Applicant elects the restriction to subspecies 2A.

This election, therefore, combining Species A and subspecies 2A, is disclosed in figures 1a-1c and 3. This election of species includes claims 2 and 4.

The Applicant wishes to note that his confusion was in part due to an absence of any statement of the facts relied on by the Examiner for his conclusion, contrary to the suggested practice in MPEP §808.01, and the requirement of a statement of reasons found in MPEP §816. If the Examiner insists upon restriction, the Applicant respectfully requests that the Examiner include a statement pursuant to MPEP §808.02 indicating his reasons for insisting upon the restriction, as the Applicant is not as familiar as the Examiner is presumed to be with the Patent Office's classifications and fields; Applicant's familiarity with fields, is more of those having grass and cattle.

For all of the above grounds and reasons the Examiner is respectfully requested to reverse his restriction and examine the claims.

If the Examiner has any questions or wishes to discuss this matter he is urged to telephone the Applicant's attorney, George S. Cole, Esq., at (650) 556-9510; or may direct an e-mail communication to the same individual via the e-mail address of GSCdLawyer@aol.com.

The Applicant believes that these claims are now all in presently allowable, correct, and proper form, and respectfully asks that the Examiner proceed to allow the application.

Respectfully Submitted:

George S. Cole, Esq.

PTO#40,563

495 Seaport Court, Suite 101 Redwood City, CA 94063

Tel: (650) 556-9510 Fax:(650) 556-9511 GSCdLawyer@aol.com OCT O 1 2014

EXPRESS MAIL CERTIFICATE

RADEMARK OF			
"Express Mail" m	ailing label No:ER727597572 US		
Date of Deposit:	OCT. 4 TH , 2004		
I hereby certify that the following documents:			
	• attorney's cover letter;		
	Office Action mailed;		
	• 2 copies transmittal cover, with:		
	petition for extension of time, and		
	payment (Deposit Account Authorization);		
	• Response to First Office Action		
	with election;		
	• claims listing, with:		
	complete listing of all claims		
and,			
	a copy of this Express Mail Certificate;		

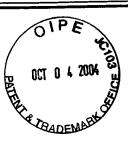
are being deposited in a single envelope with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and such envelope is addressed to:

Mail Stop Non-Fee Amendment Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450.

George S. Cole, Esq.

(Signature of person mailing documents)

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